

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

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|-----------------------|---|------------------|
| JOHN ROLAND, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| |) | No. CIV-16-179-D |
| v. |) | |
| |) | |
| OKLAHOMA CORRECTIONAL |) | |
| INDUSTRIES, et al., |) | |
| |) | |
| Defendants. |) | |

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983. On February 25, 2016, the matter was referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B).

On April 13, 2016, Plaintiff filed an Application for Leave to Proceed *In Forma Pauperis*. By Order entered April 19, 2016, the undersigned granted Plaintiff's motion. Pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff was required to pay an initial partial filing fee of \$12.92 by May 7, 2016. Plaintiff was also advised that failure to either pay the initial partial filing fee or show cause in writing for his failure to do so within the allotted time period could result in dismissal of the action.

To this date, Plaintiff has not responded to the Court's Order. He has not complied with the Court's Order by either paying the initial partial filing fee or showing cause in

writing why he is unable to do so. Nor has he requested an extension of time to comply with the Court's Order. The undersigned finds that Plaintiff's failure to comply with this Court's Order, together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. See Nasious v. Two Unknown B.I.C.E. Agents, 492 F.3d 1158, 1161 n. 2, 1162 (10th Cir. 2007)(noting the court applies Fed. R. Civ. P. 41(b) to allow *sua sponte* dismissal for "failure to . . . comply with the rules of civil procedure or court's orders").

RECOMMENDATION

Accordingly, it is recommended that Plaintiff's cause of action be dismissed without prejudice. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court on or before June 6th, 2016, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Failure to make timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues contained herein. Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 16th day of May, 2016.


GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE